

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

JAMES FITZPATRICK,

Plaintiff,

v.

No. 17-CV-1042-KG-SMV

NEW MEXICO DEPARTMENT OF
CORRECTIONS,

Defendant.

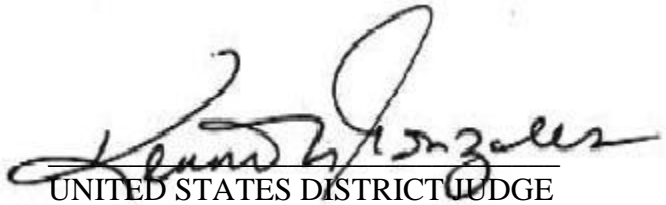
ORDER OF DISMISSAL WITHOUT PREJUDICE

This matter is before the Court, *sua sponte*. On October 25, 2017, the Court ordered Plaintiff James Fitzpatrick to cure certain deficiencies in this civil rights action by: (1) submitting a civil rights complaint on the proper form; and (2) paying the filing fee (\$400 civil/administrative) or, alternatively, submitting an Application to Proceed in District Court Without Prepaying Fees or Costs pursuant to 28 U.S.C. § 1915 and a certified copy of his inmate account statement for the six-month period immediately preceding the filing of his civil rights complaint. (Doc. 3). Plaintiff failed to comply with or otherwise respond to the Court's Order to Cure Deficiencies and, therefore, on December 20, 2017, the Court ordered Plaintiff to "comply with the Court's October 25, 2017, Order To Cure Deficiencies or show cause why this action should not be dismissed." (Doc. 4) at 2. In response, Plaintiff submitted a letter explaining that "[a]fter careful consideration and consult with an atty [sic] we have decided to file a Federal Law Suit." (Doc. 5).

In light of Plaintiff's failure to comply with the Court's orders and his failure to pay the filing fee or apply for *in forma pauperis* status under 28 U.S.C. § 1915, this civil rights action

will be dismissed without prejudice pursuant to Rule 41(b) of the Federal Rules of Civil Procedure. *See* Fed. R. Civ. P. 41(b) (providing for involuntary dismissal “[i]f the plaintiff fails to prosecute or to comply with these rules or a court order”); *see also United States ex rel. Jimenez v. Health Net, Inc.*, 400 F.3d 853, 855 (10th Cir. 2005) (noting that “dismissal is an appropriate disposition against a party who disregards court orders and fails to proceed as required by court rules”).

IT IS THEREFORE ORDERED that this civil rights action is DISMISSED without prejudice and judgment will be entered.



UNITED STATES DISTRICT JUDGE